



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12392 OF 2024

Ashtashil Mahila Bachat Gat

Thr. Its President

...Petitioner

Versus

The State Of Maharashtra And Ors.

...Respondents

Adv. Sharad Suryawanshi for the Petitioner.

Adv. Abhishek Katkar a/w Uddhav Katkar for Respondent No. 4.

Adv. P. J. Gavhane, AGP for the State.

Coram : Sharmila U. Deshmukh, J.

Date : September 30, 2024.

P. C. :

1. Heard.
2. By this Petition filed under Article 227 of the Constitution of India, the challenge is to the order dated 16th November, 2022 passed by the Respondent No.2 and order dated 12th March, 2024 passed by the Respondent No. 3.
3. The facts of the case are that the Respondent No. 2 had issued a public advertisement on 8th November, 2021 inviting applications from registered self help groups, registered societies, women's self help group etc. for allotment of new fair price shop in places where the fair price shop has been closed and where there are excess of the attached units. The applications were invited on the following terms and conditions:
 - (a) The area of the shop should be minimum 100 sq. ft.
 - (b) The shop should be in actual possession of the

Applicant and the successful Applicant should produce registered agreement in respect of the shop.

- (c) There should be reasonable access available to the shop.
- (d) The front entrance of the shop should have width and height of minimum 8 ft.
- (e) The applicant should produce necessary evidence of having bank account, the registration certificate, liquid capital of Rs. 50,000/-, proof of financial status and audit report of last one year.

4. The advertisement further specified the division in which new fair price shop were to be allotted. The Petitioner's application for allotment of fair price shop in the division near Kamgar Hospital, Mochi Pada, Near Vandana Apartment, Ulhasnagar came to be rejected by the Respondent No. 2 on the ground that the Petitioner has produced only the copy of balance sheet and not the entire audit report, proof of growth potential not produced and the entrance of the shop was less than 8 ft.

5. Being aggrieved by the order of rejection, the Petitioner filed revision application before Respondent No. 3. The Respondent No. 3 observed that Committee had rejected the applications of two women self help groups including the Petitioner as ineligible and ordered re-advertisement for allotment of fair price shop. It further observed that the hearing of the Revision Application was listed on 3rd April, 2023, however no order was passed on the Revision Application and in the meantime by order dated 13th April, 2024, the State Government has directed the units of Shop No. 40-F-13 to be attached to the fair price shop of one Rajkumar Narumal Harchandani.

6. Whilst rejecting the Revision Application, the Respondent No. 3

held that the requisite documents were not submitted by the Petitioner and as the proposed shop was tenanted premises, the contention of the Petitioner that the front entrance shutter of height of 8 ft. will be constructed cannot be accepted. It was further held that by an order of 13th April 2023, one Rajkumar Narumal Harchandani has been allotted the units attached of the old fair price shop bearing 40-F-13.

7. Learned counsel appearing for the Petitioner would submit that there was compliance with the requirements of the advertisement and despite thereof erroneously, Respondent No. 3 has held that the requisite documents were not submitted and the premises being rented premises, the required front entrance shutter of 8 ft. cannot be constructed.

8. On the contrary, learned AGP would submit that as there was specific requirements for allotment of a fair price shop as per advertisement which was not satisfied by the Petitioner, the application for allotment came to be rejected firstly by Respondent No. 2 and thereafter the findings was upheld by the Respondent No. 3.

9. Considered the submissions and perused the record.

10. To this Petition, the advertisement and the order passed by Respondent No. 2 and Respondent No. 3 are annexed. There is no other documents produced on record in order to substantiate the contention that the application filed by the Petitioner met the requirements of the advertisement. Perusal of the advertisement would indicate that one of the requirement is that front entrance of the premises should be of at least 8 ft. and that there should be no unauthorized construction. The order of 16th November 2022, passed by the Respondent No. 2 records that the entire audit report has not

been submitted and the front entrance of the shop does not meet the dimension of 8 ft. height.

11. Upon a query by this Court as regards the submission of requisite documents to satisfy the eligibility criteria, learned counsel for the Petitioner is unable to point out any material on record. The first authority as well as the Revisional Authority has held on consideration of record that the requisite documents were not submitted and there is no reason to interfere in the said conclusion. As regards the requirement of front entrance height of 8 ft., the fact that it was contended that later on the front entrance height of 8 ft. would be constructed is evident of the position that at the time when the application was made for allotment of the fair price shop, the front entrance of the shop did not have requisite height of 8 ft. and therefore, assurance was sought to be given that the said requirement will be met.

12. Respondent No. 3 has rightly not accepted the said assurance as it is necessary that on the date when an application is made for allotment of the fair price shop all the requirements of the advertisement for the purpose of allotment should be met. The advertisement does not indicate that any subsequent compliance of the terms and conditions of allotment can be permitted and the same cannot be permitted for the reason that such liberty would give unfair advantage to the present Petitioner as against the other applicants.

13. As there is a specific finding of fact by the Respondent No. 2 as well as the Respondent No. 3 that the Petitioner did not meet the requisite criteria for the purpose of allotment of the fair price shop and no material has been produced on record to demonstrate that all requirements were satisfied at the time when the application is made, I am not inclined to interfere in exercise of power under Article 227 of

the Constitution of India. Perusal of both the orders do not indicate that the authorities have exceeded their jurisdiction. There is no perversity in the said order.

14. In light of the above, the Petition being devoid of merits, stands dismissed.

[Sharmila U. Deshmukh, J.]